

EX. 15

BOULEVARD BLACK ANGUS
2519 Niagara Falls Blvd.
Amherst, N.Y. 14228

Jan. 29. 2011

Dear Ms. Sanchez,

We are a family owned meat market that has been in business since August of 1975. The company is owned by Robert Seibert, Diane Seibert, and recently added a managing partner Keegan Roberts. Presently we employ 16 employees of various ages and backgrounds. In the past 35 years we have employed Native Americans, Caucasians, African Americans, Asian and Middle Eastern. We pride ourselves as being a neighborhood market that treats our employees as if they were family. We support local organizations such as Boy Scouts, Girl Scouts, and local schools in fundraising efforts as well as Meals -On-Wheels and private individuals who are running benefits for persons who are less fortunate. We typically employ clean cut, intelligent, hard working individuals who have retail experience, or a personality conducive to friendly customer service. At present we have multiple college graduates, both male and female. Each individual brings his or her own unique experience to our business, thus varying pay rates.

Darcy Black was hired as a retail counter person and was later trained to fill orders. She began at \$7.50/hr and was part-time. She received raises of \$.50/hr. yearly to put her rate at \$10.00/hr. at the time of her leaving our employ. Everyone who is hired is informed that they do not request time off the first 12 days of the month, or Saturdays, as a rule because that is the busiest day of the week. Our retail store hours are Tuesday through Saturday, being closed Sunday and Monday. In order to get their hours they typically needed to work on Saturday.

Mark Leible, who has culinary background experience, is employed at a higher rate than Darcy. He worked for us from 2001 to 2006 at which time he wanted to go to work for his uncle. He was a terrific employee and was told if it didn't work out we would be happy to take him back. In the fall of 2009 he asked to come back and we were thrilled. His responsibilities include filling orders, making sausage, meat cutting, and occasionally waiting on the counter. His current rate of pay is \$13.00/hr.

Jamie LaPress has worked for us for approximately 11 years. His responsibilities include Sausage making, inventory rotation, cleaning of equipment and setting it up for the following day, along with cleaning of the cases and occasionally filling an order. His rate of pay is \$10.50/hr.

Sean Round has been employed since Feb. 2007. He has a B.S. in Health. His responsibilities include filling orders, delivery of orders in Erie, Niagara, and Orleans County. He also is in charge of flyer distribution to those areas and occasionally assists in customer service on the retail counter. His current rate of pay is \$13.00/hr. He

typically works approximately 60 hours/week on our busiest weeks – whatever it takes to get the job done.

Patrick Howells is not an employee of Black Angus. His father and brother have been long time employees. Pat stops in regularly to bring his dad a Ted's hot dog and see the other employees. Pat has been a personal friend of the Seiberts for years as well as Keegan Roberts. Pat is in the concrete finishing business and has worked personally for the Seiberts and Keegan Roberts in finishing driveways at their personal residences. Bob and Keegan have also helped Pat out with moving, roofing, and ceramic tile over the years. This is what friends do for each other.

Debbie Nygrych has been employed by Black Angus for more than 20 years. Her responsibilities include Deli Manager, training of new help, setting up the counter every morning and any customer service issues that arise. Debbie is the "Face of the Angus" to our retail customers. Debbie has a rate of pay of \$10.50/hr. but has been grandfathered in with family health coverage which amounts to approximately \$12,000/yr. Debbie is perfectly happy with her rate of pay and health coverage.

Nicole Seibert has been around the business her entire life. She has a culinary and pastry degree. She has been on our payroll for 10 plus years. Her responsibilities include development of new prepared foods, making of salads, ordering of specialty items, stocking and organizing of retail space. Customer service is also a part of her responsibilities. She also is in charge of the evening crew and supervising all evening tasks. She closes out the register, credit card and EBT terminals and therefore in charge of daily receipts. She locks up and sets the alarm Tuesday through Saturday. Her rate of pay is \$700.00/week.

As far as varying pay rates that Darcy mentions, we could only assume she had unauthorized access to employee files in the office. After checking with employees, they all deny telling Darcy their pay rate. Our only conclusion is that she was looking through payroll records without permission.

Males absolutely do not have preferential treatment. Every employee is entitled to one 15 minute break in the morning and one 15 minute break in the afternoon. If a lunch was taken the employee punches out for ½ hour. Smoking has long been an issue here for every smoker here. A smoke break is a break. Darcy's time here was scrutinized because she abused our good nature. She would receive up to 10 personal phone calls per day and then go on a smoke break. Especially when we are as busy as you can be and the phone is ringing for Darcy because her out of control kids were being sent home from school, we tended to get a bit annoyed. On one particular occasion, Darcy and Taylor Kunzelmann were outside on a break at 10AM on a busy delivery day. Bob sent another employee out to retrieve these two employees to get back to work. Taylor returned swearing and was immediately dismissed by Bob. Darcy also returned with a negative attitude and Bob remarked to her that she was following the wrong persons lead. His only regret is not letting her go at the time. At that time, Darcy knew we were fed up, and her days here could be numbered. It was shortly after this incident that Darcy took on a part-time job cleaning at a school. This further restricted her hours she was available to work at Black Angus.

Brett Meyer does not abuse the break policy here. According to evening workers he is very good at letting them know what task he is working on and does not disappear.

On several occasions she had to leave in tears because her kids could not be controlled. We did not get a full days work for what she was being paid. Phone calls were from school teachers, principals, babysitters, doctor's offices, social workers, and family members. Keegan would ask her to cut down on the breaks and she would keep it down for a day or two and then be back at it.

As far as tardy to work, Darcy was as a rule always on time. We do have a few male employees that were not as timely and have been reprimanded for such. They punched in when they got here and were paid accordingly. Sean Round did play football on a Saturday morning league and would come in to work for a few hours in the morning and then go play the game. He would return after the game and finish the day. He was paid accordingly. Sean usually worked only the first two Saturdays of the month because he typically did not wait on the counter and he usually was on over-time before Saturday. Debbie has had Saturday off on occasion or when she wants, as long as it is not the first week of the month. Nicole works every Saturday because she needs to get her hours in. She is not unhappy with the arrangement. Darcy was never denied Saturday off at the end of the month unless someone else was already off or on vacation. In April 2010 Bob, Diane, Nicole, were all off one particular weekend. That could have been the weekend Darcy was referring to. We do our best to accommodate all of our employees requests without jeopardizing our business. As with all the employees, the first Saturdays of the month was not a day anyone took off. Darcy would change the number of hours she wanted to work from month to month depending on what benefits she was receiving. If her food stamps were cut she may want to cut down her hours to regain her benefits. On several occasions I had to provide wage verifications to social services. After she got married she made the statement it was the worst move of her life. She lost too many benefits.

In regard to males not having to call in if they were not going to be in, is completely false. Dan Frank was a driver for us who did not show up for work on July 3, 2006 one of the busiest days of the year. When he showed up the following day he was immediately dismissed. In November 2010 Eric Seneca (an American Indian) also did not show up for work and the following day was dismissed.

As far as Jamie smoking marijuana, the management is totally unaware of any such circumstance. This is something that would not be tolerated even once.

Sean's girlfriend of about eight months, on occasion did stop in at lunch time. Sean does not smoke so therefore never was on a smoke break. That was his break - no problem. Darcy's husband would call and then 10 minutes later would be here with coffee and Darcy would be outside to talk to him after several smoke breaks and several other phone calls. It was getting out of control.

When Bob came to work in the morning he typically did not round everyone in the building up to have a personal greeting.

As far as hiring African Americans Darcy is a bit misinformed. In our 35 years of doing business we have employed several great African American employees. We currently have Franklin Bennett on our payroll. Some previous employees would be Bobby Rivers, Eddie Davis, and the Goodwin brothers as meat cutters. As far as the interview process is concerned, if Keegan or Diane was available and the person filling out an application appeared to fit our qualifications, clean cut, intelligent, and possess customer service skills, they would take a few minutes to determine if a secondary

interview should be scheduled. The same individuals both black and white applied for jobs on several different occasions and were still not hired, not because they were black or white, male or female, but because they either could not work the hours we had available, had no transportation, did not possess a clean driver's license(when we were looking for a driver), or just was not suited for the position we had available. If we were looking for someone to organize freezers and put loads away, which requires heavy lifting, we would discard females as a rule, or older males, or anyone with a back problem. We did not want to hire someone and train them only to find out they were not suited for the job. We have had some experience with the hiring process. We did not consult Darcy as to who we should hire. On one occasion however, we did hire a friend of Darcy's, Bobby who only worked for a short time because he was incarcerated. She as a rule worked in the pac room in the rear of the building, which has no windows, so I'm not sure how she knows exactly who we spoke to. Unfortunately we do not keep old job applications because they contain social security numbers and are shredded if they are not potential prospects.

Raelean Rush and Regina Rush were both college students who worked for us for several years. They both had terrific bubbly personalities and the customers loved them. Both dated African Americans and Darcy felt a connection to them because her children were biracial. Sean did make a comment to Raelean about her boyfriend using her for her good credit score and other things. Raelean had no trouble telling Sean to mind his own business. Keegan told Sean the conversation was inappropriate for the workplace and he didn't want to hear any more. Our employees were instructed on several occasions as to what was appropriate conversation for the workplace. In Bob's words, "you can talk about the weather and sports, this is no soap opera - leave your personal dramas at home." This was largely instituted because of Darcy. Every day she had another personal tragedy that occurred the night before. For some reason she felt the need to share all the drama in her life. A couple of instances would be her husband beating her older son with a telephone sending him to the emergency room at Degraff Hospital. The next day Darcy announced she was going to divorce her husband - as far as we know this has not happened. Another was the discovery of marijuana between the mattress and box spring of her older son's bed, and yet another would be her son selling Darcy's prescription medications near the beer tent at Canal Fest. At least three separate times Bob instructed Darcy to leave her personal problems out of the workplace. He also told Darcy she would have to get used to the idea that her children were black - there was no changing that. School kids are cruel and racial remarks from kids is not unusual. That was his opinion.

Jamie was filling the paper towel dispenser in the deli with Darcy next to him. As he recalls the situation, he was having trouble getting it open and asked Darcy if she could break into it. Jamie denies referring to Darcy's children as niggers. He would joke about her kids not because they were black, but because they were always in trouble. Debbie did tell Jamie that Darcy didn't find it funny and he needed to stop. At that point Jamie and Darcy didn't talk much only as it related to their jobs. That was several months before Darcy's resignation letter. We acknowledge that there was lighthearted joking in the store never meant to be harmful to anyone. Darcy never hesitated to join in. After talking to the pac room employees it was Darcy who had a grotesque fowl mouth, and all related their individual instances of inappropriate behaviors. Bob or Diane

was never made aware of these instances. Bob was known to come down hard on these sort of instances. Everyone knew he would not tolerate such behavior.

The word "nigger" is not used in the store. At least 60% of our business has to do with inner city customers. They are referred to as such. To refer to them in a negative way would not be beneficial to our business.

Darcy was easy to feel sorry for early on in her employment. A single mother with two biracial children trying to work to provide for her family. Keegan's wife Jill who at the time worked for Windsong Radiology in the billing department, convinced her office to adopt Darcy's family for Christmas 2008. They benefited from many generous gift-givers. Jill did most of the shopping herself. Keegan and Jill also adopted Darcy's dog at her request, because the dog was sick and she couldn't care for it. Bob and Diane personally loaned Darcy money on two separate occasions to fix her van. No exact repayment schedule was made. Darcy would pay \$20.00 most weeks if she could afford it until the loan was repaid. She was also invited to parties at the Seibert's home, which she attended. When Darcy announced her engagement our employees were happy for her thinking that maybe things would improve for her. Store employees even made the cake for Darcy's bridal shower and of course attended. At least 75% of the employees attended the wedding. We were happy for her.

It is the feeling at Black Angus that the only one with a black and white issue is Darcy. She left her resignation letter on Diane's desk the day after Bob and Diane left for vacation. She didn't want to face those who treated her like family. She had even commented on how she was treated as family. She then proceeded to call Raelean Rush to ask if she would corroborate Darcy's allegations but Raelean refused. Raelean's mother called Diane to let her know. After the resignation letter Darcy was informed she did not need to complete her two-week notice, and was paid her vacation.

We hope we have addressed all the grievances adequately and will be available if there are further questions.

Sincerely,


Robert Seibert

Diane Seibert

Owner/Bookkeeper

